

binding language on redeployment. While our brave troops are stuck in the middle of a civil war in Iraq, we have a bill with political benchmarks that lack meaningful consequences if they are not reached.

Legislation as important as this funding bill should have been openly considered in this body. I am talking about an open and on-the-record debate with amendments offered and voted upon. That is the way the Senate is supposed to operate. I shared the desire of my colleagues to pass this important bill as quickly as possible, but that was no excuse for us avoiding our responsibilities as legislators. Unquestionably, it was easier and faster for us to send a place holder bill back to the House. By doing that, the real work could be done behind closed doors where all kinds of horse trading can occur and decisions are unknown until the final deal is sealed. That process makes it a lot easier for most Members of Congress to avoid responsibility for the final outcome—we didn't have to cast any votes or make any difficult decisions. In short, we didn't have to do any legislating.

Now that we face a badly flawed, take-it-or-leave-it bill, we can simply shrug, apparently, and tell our constituents we did the best we could. That is not good enough, not when we are talking about the most pressing issue facing this country.

In the 5 months we have been in control of Congress, a unified Democratic caucus, with the help of some Republicans, has made great strides toward changing the course in Iraq. We were able to pass the first supplemental bill, supported by a majority of the Senate, that required the phased redeployment of our troops to begin in 120 days.

Last week, a majority of Democrats supported ending the current open-ended mission by March 31, 2008. It has been almost 1 year since 13 Senators supported the proposal I offered with Senator KERRY that would have brought our troops out of Iraq by this summer. Now, 29 Senators support an even stronger measure, enforced by Congress's power of the purse, to safely redeploy our troops.

Unfortunately, after that strong vote, we are now moving backward. Instead of forcing the President to safely redeploy our troops, instead of coming up with a strategy providing assistance to a postredployment Iraq, and instead of a renewed focus on the global fight against al-Qaida, we are faced with a spending bill that just kicks the can down the road and buys the administration time.

But why, I ask you, would we buy the administration more time? Why should we wait any longer? Since the war began in March 2003, we have lost more than 3,420 Americans, with over 71 killed since the beginning of this month. Last month, we lost over 100 Americans. Last weekend, the media reported that 24 bodies were found lying in the streets of Baghdad, all of

whom had been killed execution style. Nineteen of them were found within parts of the city where the troops have "surged."

The administration's policy is clearly untenable. The American people know that, which is why they voted the way they did in November. They want us out of Iraq, and they want us out now. They don't want to give the so-called surge time. They don't want to pass this problem off to another President and another Congress. And they sure don't want another American service-member to die or lose a limb while elected representatives put their own political comfort over the wishes of their constituents.

It was bad enough to have the President again disregard the American people by escalating our involvement in Iraq. Now, too, Congress seems to be ignoring the will of the American people. If the American people cannot count on the leaders they elected to listen to them and to act on their demands, then something is seriously wrong with our political institutions or with the people who currently occupy those institutions.

I urge my colleagues to reject the weak supplemental conference report and to stand strong as we tell the administration it is time to end the war that is draining our resources, straining our military, and undermining our national security.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. OBAMA). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MENENDEZ. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The majority has 4 minutes left in morning business.

Mr. MENENDEZ. Mr. President, on behalf of the majority, I yield back the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### COMPREHENSIVE IMMIGRATION REFORM ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1348, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1348) to provide for comprehensive immigration reform and for other purposes.

Pending:

Reid (For Kennedy/Specter) amendment No. 1150, in the nature of a substitute.

Grassley/DeMint amendment No. 1166 to amendment No. 1150, to establish a permanent bar for gang members, terrorists, and other criminals.

Cornyn amendment No. 1184 (to amendment No. 1150), to establish a permanent bar for gang members, terrorists, and other criminals.

Coleman/Bond amendment No. 1158 to amendment No. 1150, to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to facilitate information sharing between federal and local law enforcement officials related to an individual's immigration status.

Akaka amendment No. 1186 to amendment No. 1150, to exempt children of certain Filipino World War II veterans from the numerical limitations on immigrant visas.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 1158

Mr. MENENDEZ. Mr. President, I would like to start this morning's debate on immigration by speaking to two of the pending amendments that are before the Senate. First, I would like to speak toward the Coleman amendment.

Under Senator COLEMAN's amendment, he would, in essence, undermine the rights of States and local municipalities which have instructed their police, health, and safety workers from inquiring about the immigration status of those they serve in order to protect the health and safety and promote the general welfare of the community.

As Ronald Reagan said: Here we go again. Over the last several years, particularly in the House of Representatives, there have been different pieces of legislation and amendments offered and debated that would deputize State and local police to enforce what is, in essence, Federal civil immigration law. The Coleman-Bond amendment would effectively prohibit State and local Government policies that seek to encourage crime reporting and witness cooperation by reassuring immigrant victims that police and other government officials will not inquire into their status.

So the amendment would send a mandate from Washington that would end State and local policies that prevent their employees, including police and health and safety workers, from inquiring about the immigration status of those they serve if there is "probable cause"—probable cause; exactly what standard we are going to use for that is still, in my mind, not quite defined—to believe the individual being questioned is undocumented.

Now, I have talked to some of the toughest law enforcement people across the country. Many cities, counties, and police departments around the country have decided that it is a matter of public health and safety not to ask, not to ask about the immigration status of people when they report crimes or have been the victims of domestic abuse or go to the hospital seeking emergency medical care.

Currently, scores of cities and States across the Nation have such confidentiality policies in place, some upwards of 20 years of having such policies in place. The point of these policies is to make sure immigrants report crimes and information to police and do not stay silent for fear that their immigrant status or that of a loved one could come under scrutiny if they contact the authorities.

Information is one of the most powerful tools law enforcement has to prosecute individuals in the course of a crime, to know who the perpetrator was, to know who was in the gang activity, to know who is the drug dealer. Think of the potential chilling effect this amendment could have on the willingness and ability of immigrant crime victims and witnesses, those who have been victims of domestic abuse, and those who may need emergency health care to turn for assistance if they feared that deportation rather than receiving assistance would result. That is why cities and States have passed local laws and set policies limiting when police and city and county employees can ask people to prove their immigration status.

States and local police have long sought to separate their activities from those of the Federal immigration agents in order to enhance public safety. Now, why do States and local law enforcement entities do that? Why is that? Because when immigrant community residents begin to see State and local police as deportation agents, they stop reporting crimes and assisting in investigations. It undermines the trust and cooperation with immigrant communities that are essential elements of community-oriented policing.

There are numerous examples of police opposing such efforts. In fact, in 2005, Princeton, NJ, police chief Anthony Federico said:

Local police agencies depend on the cooperation of immigrants, legal and illegal, in solving all sorts of crimes and in the maintenance of public order. Without assurances that they will not be subject to an immigration investigation and possible deportation, many immigrants with critical information would not come forward, even when heinous crimes are committed against them or their families.

So those who are entrusted to protect us understand that the relationship of trust built with the immigrant community would be ruined overnight if this provision becomes law.

This amendment would also cause millions of people in this country, not just immigrants—not just immigrants—to think twice about getting the medical treatment they need. Why would we discourage individuals from receiving medical care? Let's think about the possible consequences for a second. You are rolled into an emergency room, and you do not have insurance. Would there be "probable cause" to be asked whether you are here legally in the United States?

Assume I get rolled into an emergency room "Mr. Menendez" or maybe

someone who might even be described as more characteristically Hispanic or maybe Asian or some other group, and I do not happen to have insurance, as, unfortunately, 40 million Americans who are here as U.S. citizens do not have, and in that moment, I am asked whether I am an American citizen. That would be shameful. You would not ask any other citizen that. But what you create under these sets of circumstances is the opportunity for law enforcement, for health officials, for emergency management officials to begin to ask the questions. And under what probable cause? The way someone looks? The accent with which they speak? The surname? Under what probable cause? Under what probable cause? The misfortune of not having health insurance? Is that an indicator that you are likely not here in a documented fashion, those who look a certain way?

This amendment can clearly also encourage racial profiling. People who look or sound foreign would be the ones whose citizenship or immigration status will be questioned. Under this amendment, we are asking public hospital workers, teachers, police, social workers, and all public employees to decide where there is probable cause to believe someone does not have lawful immigration status. That means treating anyone who looks or sounds foreign with suspicion. In my mind, that is just plain wrong.

One could argue that the Coleman amendment is a coercive action against any State, municipality, or other entity to say to that State, municipality, or other entity that they must do a series of things, such as obtaining information on a person's status, like my own, which I was born in this country. So much for States rights. So much for the local municipalities know best. For 15 years in the Congress, I have listened to my Republican colleagues speaking of States rights, of local rules, of States knowing best. But I guess they do not know best when it comes to the law enforcement of their own communities.

We don't need a provision such as this. Current law already provides ample opportunity—ample opportunity—for State and local police to assist Federal immigration agents in enforcing the laws against criminals and terrorists. What they cannot do is start asking everyone they come across for their "papers." "Let me see your papers."

States and localities that do want to take on a broader role in immigration enforcement can enter into a memorandum of understanding with ICE, receive training in immigration law, and assist in enforcement operations under Immigration's supervision. That already exists in the law, and there are communities which have chosen to do that.

Mr. President, this amendment would create fear in entire communities, would inevitably deter not only un-

documented immigrants but legal immigrants and citizens from not being subject to being prosecuted simply because of who they are, what they look like, how they sound, what their surname is, because God knows what the probable cause is.

Mr. KENNEDY. Would the Senator yield on that point?

Mr. MENENDEZ. I don't think that is the America we want.

I am happy to yield.

Mr. KENNEDY. I just wonder if the Senator would yield on this point because this is extremely important. This is about American citizens too. There are individuals who go to a hospital, people who take their children to school for vaccinations, and this has the language that if an official has probable cause to believe they are undocumented, they can question that individual.

Suppose they question them before they treat them? The way I look at it and read that, this could be an American who goes in, an American citizen goes in, and for some reason, some attendant says: Well, I have reason to believe this is undocumented, let's see all of your papers, while the person is either trying to be attended to, with a serious injury, or trying to get their child immunized to protect not only that child but other children in the classroom. How in the world are they going to be able to do that without opening up a whole system of profiling in this country?

I maintain that we have very strong border security and we have very strong provisions in here in terms of employment security, to try to make sure we are going to have the right people who are going to be able to work here and we are going to know who is going to be able to come into the United States. But this here really seems to me to be endangering American citizens in a very important way. I was just wondering if the Senator might comment on that.

Mr. MENENDEZ. Well, I appreciate the question and the Senator's observations. The Senator is absolutely right. Actually, this makes hospital workers enforcement workers. This makes your local volunteer ambulance corps an agent because a municipality may say: We don't want you to ask that question; we want you to deal with the life-saving moment that is before your hands.

As a matter of fact, let's think about an outbreak of disease. We have an outbreak at a hospital. Do you not want that individual to be able to go and be treated and contain the outbreak? No, let's find out what their status is. If you happen to have a surname that is what we conceptualize as undocumented, or if you don't have command of the English language in a powerful way, we conceptualize that you must be undocumented. If you don't have insurance, that must be an indicator of probable cause, even though there are 40 million U.S. citizens who don't have

it. Clearly, this turns people who have professed to protect, to defend, and to provide health care into agents against their will. That is why municipalities and States have chosen a different course. They understand better. That is why I certainly urge a strong "no" vote on the Coleman amendment.

AMENDMENT NO. 1184

I wish to turn to another amendment pending before the Senate, the Cornyn amendment. I will talk about some elements of this to give our colleagues in the Senate a taste of what is here. This is far from a technical amendment. It has very substantive consequences, if it were to be adopted. It actually undermines the "grand bargain" that I understood was struck. Let me give one of the examples of how it undermines the "grand bargain." A provision of the Cornyn amendment adds new grounds of deportability for convictions relating to Social Security account numbers or Social Security cards and relating to identity fraud. As with virtually all of the other provisions in his amendment, this suspension is retroactive. So upon passage of this bill, if it were to become law, these new offenses would go backward, would become retroactive, so that the acts that occurred before the date of enactment would become grounds for removal. If part of the goal is to bring those in the shadows into the light and to apply for a program, you would have huge numbers of people who would in essence be caught by this provision in a way that would never allow the earned legalization aspect of what is being offered as a real possibility for them. It would undermine the very essence of the "grand bargain." Significantly, this provision would place individuals applying for legalization in a catch-22 situation. We want them to come forward and register because we want to know who is here pursuing the American dream versus who is here to destroy it. Yet if they admit to having used a false Social Security card to work in the United States, only to be prosecuted by a U.S. Attorney or one working in concert with the Department of Homeland Security to selectively target certain applicants, that individual's ultimate prosecution changes to a removal because of conduct that occurred prior to the enactment, conduct that was fundamentally incident to his or her undocumented status.

The potential impact of making literally thousands and thousands of undocumented workers subject to these provisions would in essence nullify the very essence of the earned legalization aspect of the "grand bargain." We know that because of the failed employer sanctions, which this bill undoes and makes sure we have the right type of employer verification and the right type of sanctions and the right type of enforcement, undocumented workers have moved consistently in order to earn a livelihood and support their families in a way that would be undermined by this amendment. Given ICE'S

new interior enforcement strategy, it seems to me what we will see is the rounding up of thousands of undocumented workers during worksite enforcement actions while we are supposedly waiting for the triggers which we enhanced yesterday. We made those even more difficult, which means it isn't going to be 18 months for those triggers to take place, it is going to be a lot more time, if this is what ends up being the final bill.

In that effort, we are going to have individuals who ultimately are not going to be subject to the opportunities we supposedly say are a pathway to earn legalization as part of the overall solution to our problem. Because the amendment is retroactive, and retroactivity as a provision of law is something we generally have disdain for, it would apply even to those applying for admission after the date of enactment. Clearly, it puts in jeopardy the total element of the legalization process.

Secondly, to address a different provision of the Cornyn amendment, it permits secret evidence to be used against an individual without any opportunity for it to be reviewed. This amendment gives the Attorney General—and we have seen of late what is capable out of the Justice Department—unreviewable discretion to use secret evidence to determine if an alien is "described in"—not guilty of anything, but just described in—the national security exclusions within the immigration law. A person applying for naturalization could have her application denied and she would never know the reason for that denial, never have a chance to appeal and prove it was wrong.

If a lawful permanent resident already, somebody who followed the rules, obeyed the law, waited, came in, now a lawful permanent resident, maybe even serving their country, was giving money to tsunami relief and accidentally that money went to a charity controlled, for example, by the Tamil Tigers in Sri Lanka, that person could be denied citizenship on the basis of secret evidence, and there would be no review in the courts. In sum, it allows deportation based upon unreviewable determinations by the executive branch, determinations that can be based on secret evidence that the person cannot even see, let alone challenge.

All of these provisions are retroactive. Retroactivity is antithetical to core American values. What could be more unfair than changing the rules in the middle of the game. That is why it is unconstitutional in criminal law and strongly objectionable in a context like immigration law, where such changes can have profound, life-altering consequences. Why would we want to repeat the mistakes of past immigration reform? Retroactivity in that law led to incredible hardship and had the most strident immigration hardliners questioning whether the law had gone too far. Retroactivity was

eliminated from all of those provisions during Judiciary Committee markup in past legislation, but now it emerges again.

We can be tough. We can be smart. The underlying substitute does so much to move us forward in this regard. But at the end of the day, let us not undermine the very essence of the constitutional guarantees that have been upheld by the courts—of judicial review, of due process, which makes America worthy of fighting for and dying for, the Constitution, the Bill of Rights that enshrines those essential rights and guarantees them to all of us, for its enforcement that makes us so different than so much of the rest of the world. We are moving in this bill, by a series of amendments—some that would have been adopted and some that are already pending and others I fear may come—into a state in which that is continuously eroded to great alarm. I hope the Senate will reject these because in terms of their pursuit and enforceability, at the end of the day, they will become real challenges.

We are going to overturn States and municipalities. We will make them enforce them. Will there be penalties against States and municipalities that have a different view of public safety? Secret evidence, is that the new standard for us, secret evidence that is not subject to review, not subject to be contested? What are we going to permit now? Retroactivity as a rule of law for the United States? You never know what you did before may have been right or wrong. That is the essence of why we don't like retroactivity. We tell people: This is the law, follow this law. We expect them to do it. But we also don't change it on them by passing a new law and saying: By the way, that was wrong, you couldn't do that, even though we told you you could, but retroactively we changed it; now we catch you in a set of circumstances in which you have committed a crime. That is why we don't do that generally in the law. That is why the Cornyn amendment should be defeated.

I yield the floor.

The PRESIDING OFFICER (Mr. TESTER). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my friend and colleague from New Jersey for his comments, both on the Coleman amendment and the Cornyn amendment.

To remind our colleagues, we intend to have votes starting at 12:15. Yesterday we had some success on a number of different amendments. We have a number here which we expect votes on through the afternoon. We will have a full morning and afternoon.

With regard to the Coleman amendment, because the American people obviously are concerned about security, we are concerned about security from terrorism. We are concerned as well about security from bioterrorism or from the dangers of nuclear weapons. We have heard those words. We have

taken action on many of them. We still have much to do. But we have in this legislation taken a number of very important steps with regard to security. It is important to understand what has been done in this legislation in terms of security and how the Coleman amendment fails to meet the test. In a number of areas, it probably endangers our security. It does so with regard to health care, education. It may even in other areas as well.

In this legislation, we are doubling the Border Patrol. We are creating a new electronic eligibility verification system, increasing penalties on non-compliant employers by a factor of 20. We are increasing detention space and requiring more detention of undocumented immigrants, pending adjudication of their cases. We are expanding the definition of aggravated felony to encompass a wider array of offenses. We are increasing the penalties related to gang violence, illegal entry, and illegal reentry. We are increasing penalties related to document and passport fraud. The list goes on. The question is, does this amendment add to our security, or does it make us more vulnerable to a public health crisis, more vulnerable to crime, terrorist attack, and less competitive?

What we are basically doing with the Coleman amendment is saying to any teacher, any doctor, any nurse, any public official, if they believe they have probable cause—and we have to understand what that means in terms of the individual, how they are going to know there is probable cause—then they can test the individual that is before them to find out whether they are undocumented, whether they are legal, or whether they are an American.

Let's take an example. Tuberculosis, which we have seen grow dramatically over the last 3 years for a number of different reasons—71 percent of those who have tuberculosis are foreign. But in order to protect American children from tuberculosis, we need to screen and protect those who have tuberculosis; otherwise, we will find the tuberculosis is going to spread.

Well, what are we going to do? What is important is that if we find out a person comes in and the family has tuberculosis and the individual says: Well, I am not sure I am going to treat you because I am not sure you are an American citizen or if you are undocumented or if your papers are right, so I am not sure we are going to treat you, and that family has tuberculosis, the child goes into a classroom with a communicable disease and infects a number of American children? This is the typical kind of challenge.

On immunization: Immunization is down in this country dramatically. What happens? We know when we do not immunize the children, they become more vulnerable to disease. Maybe these children are going to go into the public school system and are going to spread that disease. Isn't it better to make sure they are going to

get the immunization? Or are we going to say to the medical professionals: Well, I think that person is undocumented. I think they may be illegal. Sure, they have papers. They look OK. But I am not sure they are OK, so therefore I am not going to treat them.

This is false security. We have tough security in the bill.

What are we going to say in the situation where we have battered women—which is taking place today in too many communities across this country? It is a reality. We might not like it, but it is a reality, and many of the people who are being battered happen to be immigrants, undocumented individuals. What are they going to do after they are getting beaten and beaten and beaten and they go on in to try to get some medical care? Oh, no. Well, you are undocumented, so we are going to report you for deportation. Report to deport. That is the Coleman amendment: Report to deport—trying, in these situations, to meet the immediate needs.

What is going to happen to the migrant, the undocumented, who sees a crime, knows the people, is prepared to make sure the gangs who are distributing drugs—they are a witness to a crime in the community and they go down to the police department and the first thing the police officer says is: Well, you look like you are undocumented. Let's see your papers, and they arrest the person, rather than solving the crime, rather than stopping the gang.

So this is, I think, false security and unnecessary. We will have a chance to address that. As we mentioned earlier, the amendment would prevent the local governments from having the flexibility to reassure fearful immigrant communities it is safe to come forward for programs that are absolutely essential to public health and safety. If the immigrant families are afraid to access the key public health interventions, such as immunization or screening for communicable disease, the public health consequences for the entire community are severe.

When the Nation is attempting to be prepared for the threat of biological terrorism or serious influenza epidemic, this is a dangerous policy. Local governments need the flexibility to keep the entire community safe.

Public health workers should not be enforcers. Public health workers should not be enforcers of immigration law. This can create a massive fear of the health care system and upset the trust of a patient-doctor relationship that many public health workers have worked to build among the immigrant community for years.

Further, social service and health care providers are unlikely to be familiar with the complex and constantly changing immigration laws, which would be needed to determine a patient's status and for which they would have to undergo extensive training.

I have listened to the Members of the Senate talk about the 1986 immigration

laws like they understood it and knew what they were talking about. How in the world are we going to expect the local policeman or the local nurse or the local doctor to understand it when on the floor of the Senate they do not even understand it?

What are going to be the implications? The implications are going to be: There is going to be increased fear, increased discrimination, increased prejudice, and increased disruption—not only of people's lives but also of the public health system, the education system, and the law enforcement system.

So this amendment does not make sense. At an appropriate time, we will comment further about it.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I respect the purpose the distinguished Senator from Minnesota has in advancing this amendment, but I believe it would have a chilling effect on the reporting of crime by immigrants whose status is undocumented.

We had a hearing on this subject in Philadelphia, for example. The chief of police, Sylvester Johnson, had this to say:

Meeting public safety objectives is only possible when the people trust their law enforcement officials. Fear of negative consequences or reprisal will undermine this important element of successful police work.

Many major cities in the United States have adopted so-called sanctuary city policies, such as Phoenix, Los Angeles, San Diego, Philadelphia, San Francisco, New Haven, Portland, Baltimore, Detroit, Minneapolis, Albuquerque, and New York.

Mayor Bloomberg testified before the Judiciary Committee saying:

Do we really want people who could have information about criminals, including potential terrorists, to be afraid to go to the police?

Mayor John Street of Philadelphia, in a letter to me, said:

It is imperative that immigrants who may be witnesses to or victims of crime not suffer repercussions as they attempt to give and receive assistance from law enforcement.

Mr. President, I ask unanimous consent that the full statement of the analysis of the amendment be printed in the RECORD at the conclusion of my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. The essential point is that undocumented immigrants, if they are victims and make a report, or if they are witnesses, or if they have information about dangerous people—terrorists, illustratively—should have confidence and feel free to come to the police. Well-intentioned as this amendment is, I think it would be counterproductive and unwise.

AMENDMENT NO. 1190

Mr. President, I think we are in a position to accept the McCain amendment when Senator KENNEDY returns

to the floor. The thrust of the amendment offered by Senator MCCAIN, No. 1190, would provide that undocumented immigrants would have an obligation to pay Federal back taxes at the time their status is adjusted under the provisions of the bill.

Mr. President, I ask unanimous consent that I be added as an original cosponsor to the McCain amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I note the presence of the Senator from North Dakota in the Chamber, who intends to speak, so I yield the floor.

#### EXHIBIT 1

#### ANALYSIS OF AMENDMENT

Requiring local law enforcement to inquire about immigration status undermines both law enforcement efforts and raises national security concerns:

"Meeting public safety objectives is only possible when the people trust their law enforcement officials. Fear of negative consequences or reprisal will undermine this important element of successful police work." [Philadelphia Police Commissioner Sylvester Johnson, Written testimony to SJC, 7/5/06 hearing, p. 1.]

"Crime does not discriminate. Requiring immigration enforcement by local Departments will create distrust among persons from foreign lands living in the United States. Undocumented immigrants will not report victimization or cooperate in solving crimes or testifying for fear of deportation." [Philadelphia Police Commissioner Sylvester Johnson, Written testimony to SJC, 7/5/06 hearing, p. 1.]

"If an undocumented person is a victim or a witness of a crime, we want them to come forward. They should not avoid local police for fear of deportation." [SJC 7/5/06 hearing transcript, p. 31, Philadelphia Police Commissioner Sylvester Johnson.]

"It is imperative that immigrants who may be witnesses to or victims of crime not suffer repercussions as they attempt to give and receive assistance from law enforcement." [Letter from Philadelphia Mayor John Street to Sen. Specter.]

"Do we really want people who could have information about criminals, including potential terrorists, to be afraid to go to the police?" [SJC 7/5/06 hearing transcript, p. 27, New York Mayor Michael Bloomberg.]

"It will also undercut homeland security efforts among immigrant communities, in that those who that may know persons who harbor knowledge of terrorist activities will no longer be willing to come forward to any law enforcement agency for fear of reprisal against themselves or their loved ones." [Philadelphia Police Commissioner Sylvester Johnson, Written testimony to SJC, 7/5/06 hearing, p. 1.]

Immigrants who live in fear of local authorities may undermine public health efforts:

"In the event of a flu pandemic or bioterrorist attack, the City would provide prophylaxis to all of its infected residents regardless of immigration status. The immigrant population, due to fear, might refrain from identifying themselves if infected, potentially resulting in the spread of disease leading to a public health crisis." [Letter from Philadelphia Mayor John Street to Sen. Specter.]

"Do we really want people with contagious diseases not to seek medical treatment? Do we really want people not to get vaccinated against communicable diseases?" [SJC 7/5/06 hearing transcript, p. 27, New York Mayor Michael Bloomberg.]

Local law enforcement officials who inquire about immigration status may subject themselves and their offices to civil litigation and claims of racial profiling:

"[A]ll Police Departments are susceptible to civil litigation as a result of civil rights suits. . . . [T]ime in court on a civil suit equates to fewer officers of our streets and settlements, court costs, and Plaintiff's rewards all cost all citizens precious resources. With questionable federal law authority to enforce such immigration laws, and with a precedent of local police being sued for assisting in the enforcement of immigration law, the probability of civil suits against local departments as primary enforcers is a major concern." [Philadelphia Police Commissioner Sylvester Johnson, Written testimony to SJC, 7/5/06 hearing, p. 2-3.]

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my understanding is—I will wait for Senator KENNEDY to appear on the floor—my understanding is there would be an agreement to allow me to offer my amendment at this point, which would require me to set aside whatever pending amendment exists. If that is acceptable, I will do that, offer my amendment, and then speak on my amendment.

So I ask whether that it is acceptable for me to ask consent to set aside the pending amendment.

Mr. SPECTER. Mr. President, I think it is acceptable for the Senator from North Dakota to ask that the pending amendment be set aside. I will not object, and I am the only Senator on the floor—unless the Presiding Officer objects.

Mr. DORGAN. Mr. President, I ask unanimous consent that the pending amendment be set aside so I may be able to offer an amendment that is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1181 TO AMENDMENT NO. 1150

Mr. DORGAN. Mr. President, I ask for the amendment's immediate consideration.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, and Mrs. BOXER, proposes an amendment numbered 1181 to amendment No. 1150.

The amendment is as follows:

(Purpose: To sunset the Y-1 nonimmigrant visa program after a 5-year period)

At the end of section 401, add the following:

(d) SUNSET OF Y-1 VISA PROGRAM.—

(1) SUNSET.—Notwithstanding any other provision of this Act, or any amendment made by this Act, no alien may be issued a new visa as a Y-1 nonimmigrant (as defined in section 218B of the Immigration and Nationality Act, as added by section 403) after the date that is 5 years after the date that the first such visa is issued.

(2) CONSTRUCTION.—Nothing in paragraph (1) may be construed to affect issuance of visas to Y-2B nonimmigrants (as defined in such section 218B), under the AgJOBS Act of 2007, as added by subtitle C, or any visa program other than the Y-1 visa program.

Mr. DORGAN. Mr. President, I ask unanimous consent that Senator DURBIN be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, this amendment is relatively simple. It is an amendment that would sunset the so-called guest worker or temporary worker provision.

As my colleagues know, I was on the floor the day before yesterday attempting to abolish the temporary or guest worker provision. I failed to do that. We had a vote and, regrettably, in the Senate they count the votes, and when they counted those votes, I was on the short end. I have felt very strongly about this issue, and I wish to describe why. But having lost that vote, what I next propose is that we sunset the temporary or guest worker provision.

Let me describe that even if we were not on the floor of the Senate talking about immigration today, we have a great deal of legal immigration in this country. We have a system by which there is a quota where we allow in people from other countries to become citizens of our country, to have a green card, to work, and then work toward citizenship.

Let me describe that even if we were not here with an immigration proposal, here is who would be coming to our country. The 2006 numbers, I believe, are: 1.2 million people—1,266,000 people—last year came to this country legally; 117,000 of them came from Africa; 422,000 came from Asia; 164,000 came from Europe; 414,000 came from various locations in North America, including the Caribbean, Central America, and other portions of North America; 138,000 came from South America.

Let me reiterate, the cumulation is 1.2 million people that came to this country legally, and received green cards last year. So it is not as if there is not immigration—legal immigration. We have a process by which we allow that to happen.

There are people, even as I speak this morning, who are in Africa or Europe or Asia or South America or Central America, and they have wanted to come to this country, and they have made application. They have waited 5 years, 7 years, 10 years, and perhaps they have risen to the top of the list or close to the top of the list to—under the legal process for coming to this country—be able to gain access to this country.

Then, they read we have a new proposal on immigration. No, it is not that immigration quota where you apply and you wait over a long period of time. It is that if you came into this country by December 31 of last year—snuck in, walked in, flew in—illegally, we, with this legislation, deem you to be here legally. We say: Yes, you came here illegally. You were among 12 million of them who came here illegally—some of them walking across, I assume, on December 31, who crossed the southern border—and this legislation says: Oh, by the way, that does not matter. What we are going to do is describe you as being here legally, and we are going to give you a permit to go to work.

What does that say to people in Africa or Asia or Europe who have been waiting because they filed, they believed this was all on the level, there is a process by which you come to this country legally—it is quota—and they decided to go through that process? What does it say to them that now we have said: Do you know what. You would have been better off sneaking across the border on December 31 of last year because, with a magic wand, this legislation would say you are perfectly legal.

In addition to the 1.2 million people who came here legally, under this bill there would be another 1.5 million people coming to do agricultural jobs. There are also 12 million people who have come here illegally. Let me say quickly I understand there will be some of them who have been here 10 years, 20 years, and more, who came here—they didn't come legally, I understand that—but they have been here for two or three decades. They have raised their families here, they have been model citizens, they have worked. I understand we are not going to round them up and ship them out of this country. I understand that. There needs to be a sensitive, thoughtful way to address the status of those who have been here for a long period of time and who have been model citizens. This is different than deciding that those who walked across the border on December 31 of last year are going to be deemed legal. That is very different.

But in addition to those questions about the legal status of 12 million people who came here without legal authorization, the other question is: Should we decide to bring additional people into this country who aren't now here to take American jobs under a provision called the guest worker or temporary worker provision?

Now, you don't have to read many newspapers in the morning to see the next story about the company that closed its plant, fired its workers, and moved its jobs to China. You don't have to spend a lot of time looking for stories such as that. They are all around us, American companies exporting American jobs in search of cheap labor in China, Indonesia, Sri Lanka, Bangladesh, and at exactly the same time, we see all of these stories about exporting American jobs. We now see the urgings of the biggest enterprises in this country, many of which do export these jobs in search of cheap labor. We see their urgings to allow them to bring in additional cheap labor from outside of this country into this country to assume jobs American workers now have. They say these workers are necessary because they can't find American workers to do those jobs. That is not true. They don't want to pay a decent wage for those jobs. The people across the counter at the convenience store, the people who make the beds in the morning at the hotels, if they paid a decent wage, they will get workers, but they don't want

to have to do that. What they want to do is bring in cheap labor, and that is why we have a guest or a temporary worker provision.

I talked yesterday on the floor of the Senate about Circuit City, the story which reinforces all of this for me. Circuit City, a corporation all of us know, announced they have decided to fire 3,400 workers. The CEO of Circuit City, it says in the newspaper, makes \$10 million a year. They announced they are going to fire 3,400 workers at Circuit City because they make \$11 an hour and that is too much to pay a worker. They want to fire their workers and hire less experienced workers at a lower wage. This pernicious downward pressure on income in this country—fewer benefits, less retirement, less health care, lower income—is, in my judgment, initiated by the export of American jobs for low wages and the import of cheap labor for low wages, all of it coming together to say to the American worker: It is a different day for you and a different time for you. Don't expect the kind of wages you used to have. There is downward pressure on all of those wages, and that is part and parcel of what this proposal is: temporary guest workers.

Let me show you a graph I put up the other day, and this is a graph that has 200,000 temporary workers, because the proposal I tried to completely abolish was bringing in 400,000 temporary workers a year. That was cut by the Bingaman amendment to 200,000 a year. Let me describe how it works, because I am anxious to put a tape recorder on somebody and go listen to how they describe this at a town meeting, if they decide to vote for this.

Two hundred thousand foreign workers can come in as temporary or guest workers for 2 years. So these 200,000 come in for 2 years; then the second year another 200,000 can come in, so you have 400,000 the second year, but the 200,000 who come in can come in for 2 years, and they can bring their family if they wish. Then they have to go home for a year and take their family with them, and then they can come back for 2 more years. Or, they can come in for 2 years, not bring their family, go home for a year, and bring their family for another two years. Or, they can decide to come in for 2 years without a family, 2 years without a family, 2 years without a family, as long as they stay 1 year between each of the 2-year periods; as long as they stay 1 year outside of this country between those periods. It is the most Byzantine thing I have seen.

Now, what are the consequences of it? The consequences are this: This is cumulative, so what we have are these blocks of 200,000 workers who come and go, come and go. They stay 2 years, leave a year, bring their family, maybe don't bring their family. It is unbelievable. We are not talking about a few million people here. Add all these family members to these 200,000 workers who come for 2 years with their fami-

lies and ask yourselves: What kind of immigration is this? By the way, where will they get jobs when they come to this country? We already have an agricultural provision that is in this legislation, so these are not farm workers. We are not talking about people who come and pick strawberries here. We are talking about people who will assume jobs—we are told—in manufacturing. Why? Because we don't have enough American workers in manufacturing? Are you kidding me?

I have described at length on the floor of the Senate the people who lost their jobs because their manufacturing jobs went to China for 20 cents an hour labor, 7 days a week, 12 to 14 hours a day. They want to know where to get people to work in manufacturing? Go find the people who were laid off—thousands, hundreds of thousands, millions laid off—because their company decided they were going to make their products in China. If they need hints, go back and read my previous speeches on the floor of the Senate. Fruit of the Loom underwear, a lot of folks worked there; not anymore. Levi's, not any more. Huffy Bicycles, no more. Radio Flyer, Little Red Wagon, no more. Fig Newton Cookies, no. All of those folks worked for all of those companies. Pennsylvania House Furniture.

My colleague from Pennsylvania is on the floor. Pennsylvania House Furniture is a great example of what has been happening, if you want to find some great workers, some real craftsmen. I know I have told this story before, and I will tell it again, because it is so important and so emblematic of what is going on.

Not many people know it, but Pennsylvania House Furniture, which is fine furniture—those folks in Pennsylvania who use Pennsylvania wood and were craftsmen to put together upper-end furniture, they all got fired because La-Z-Boy bought them and they decided they wanted to move Pennsylvania House Furniture to China, and they did. Now they ship the Pennsylvania wood to China, make the furniture and sell it back here as Pennsylvania furniture. But on the last day of work with the last piece of furniture these Pennsylvania House Furniture craftsmen produced—not many people know that they turned the last piece of furniture upside down, and as it came off the line, all of these craftsmen who for years have made some of the finest furniture in this country, decided to sign the bottom of that piece of furniture. Somebody in this country has a piece of furniture and they don't know it has the signatures of all the craftsmen at Pennsylvania House Furniture on the bottom of their piece of furniture. Do you know why they signed it? Because they understood how good they were. They didn't lose their jobs to China because they didn't do good work. They were wonderful craftsmen and they were proud of their work and



they wanted to sign that piece of furniture. Somebody has that piece of furniture today, but none of those craftsmen have a job today. If somebody is looking for a manufacturing worker, I can steer them in the right direction. We have plenty of people in this country who need these jobs.

We are told two things that are contradictory. We are told there is bona fide border security in this bill. I happen to think the way you deal with immigration, first and foremost, is to provide border security. If you don't have border security, you don't have immigration reform because all you will do is nick at the edges and continue to have a stream of illegal workers flowing into this country. So the first and most important step is to provide border security.

I was here in 1986, and I heard the promises of border security, but in fact, there wasn't border security. Employer sanctions. In fact, there were not employer sanctions that were enforced. No enforcement on the border of any consequence; no enforcement with respect to employer sanctions.

We are told a guest worker provision is necessary because we cannot provide border security. Several of those who have been involved with this compromise have said: Workers will come here illegally or legally; one way or another, they are going to come in. My colleague has a couple of times pointed to the Governor of Arizona—and I suspect she did say this; I don't contest that—the Governor of Arizona, Governor Napolitano, says: You know, if you build a 50-foot-high fence, those who want to come in will get a 51-foot ladder.

Well, if that is the case, if Governor Napolitano is correct, then I guess we are not going to have border security unless we cut the legs off 51-foot ladders. The implication of that is: Illegal immigration is going to occur, like it or not. Therefore, let's have a temporary worker program, which means we will describe as legal those who come in illegally. That is the point. I mean, I don't understand this; I just don't.

So I lose the amendment fair and square to try to strike that temporary worker provision. I understand where the votes were on it. But I come to the floor suggesting let's do one additional thing. Let's at least sunset this provision.

Here is what will happen for 10 years under the temporary worker provision. This chart shows 10 years, 200,000 in the first year, 200,000 the second year. That first group of 200,000 will be on their second year, so as those 200,000 continue their work the second year, another 200,000 will join them, and then by the fourth year, we have 600,000. By the fifth year, we have 800,000.

My proposition is this: Why don't we decide to sunset this at the end of 5 years and take a look at it and see. We have plenty of experience with claims that have never borne fruit here on the

floor of the Senate. Why don't we take a look at 5 years and see where the claims were made for the temporary worker provisions. Were they claims that turned out to have been accurate or not?

Now, my understanding is—and I was looking for a statement in the press that was reporting on a colleague who was part of the compromise, if I can find it. Let me read from Congress Daily, Wednesday, May 23, which would have been yesterday.

One change that might win over some would be a sunset provision which Senator Byron Dorgan, Democrat, North Dakota, said he wanted to offer after his proposal to eliminate the guest worker program failed.

Continuing to quote:

Senator Mel Martinez, Republican of Florida, who helped negotiate the compromise immigration bill, said today he would not consider the sunset proposal a deal breaker.

I am quoting now Senator MARTINEZ from Congress Daily:

Labor conditions might change, Martinez said. I don't see why in five years we shouldn't revisit what we have done.

Martinez is among a group of roughly a dozen Senators dubbed the "grand bargainers," who have agreed to vote as a block to stop any amendments they believe would unravel the fragile immigration compromise on the Senate floor.

So at least one of the grand bargainers, Senator MARTINEZ, has told Congress Daily that the amendment I offer is not a deal breaker. He says:

I think it is perfectly reasonable.

Again quoting him:

I don't see why in five years we should not revisit what we have done.

So I would say to my colleagues, at least one of the "grand bargainers," so described by Congress Daily, has said the amendment that I offer with Senator BOXER and Senator DURBIN to provide a sunset after 5 years to the temporary or guest worker provision would not be a deal breaker.

We have passed a lot of legislation in the Congress that represents important policy choices and a number of those pieces of legislation have sunset provisions. The farm bill. The farm bill has sunset provisions in it. The Energy bill, the bankruptcy reform bill, the intelligence reform bill, all have sunset provisions. The purpose: Let's find out what happened and then determine what we do next. A sunset clause doesn't mean a piece of legislation will not get reauthorized. It might. If all of the claims that buttress the original passage turn out to be accurate, then you might well want to reauthorize it. But with other pieces of legislation, we have sunsetted key provisions. Why wouldn't we want to do the same with respect to temporary workers, which will open the gate and say come into this country.

This immigration bill that we have, with 12 million people being deemed legal, who came without legal authorization, that is not enough. We need

more. I know we had discussion yesterday about chicken pluckers on the floor of the Senate. How much money will chicken pluckers make? Well, I will tell you one thing about chicken pluckers and those who do that kind of work. They are never going to make the money they used to make because of downward pressure on wages. That downward pressure in that sector comes directly from a massive quantity of cheap labor that has come into this country. That may be all right if you are not plucking chickens.

If you are working in one of those plants and you see what happened to wage standards and wage rates, it is very hard to say we are making progress on behalf of the American worker. We are not. That is what brings me to the floor of the Senate. I regret that I disagree with some very good friends in the Congress on these issues. But the fact is that this is very important public policy. This public policy and things that attend to it and relate to it determine what kind of jobs we are going to have in the future, what kind of economic expansion we will have, and what can the middle-income families expect for themselves and their kids and their lives.

I am not going to speak much longer, but I wish to say this. I remind all my colleagues where we have been. Almost a century ago, there was a man who was killed. I wrote about him and said he died of lead poisoning. He actually was shot 54 times—James Fyler. The reason he was shot 54 times almost a century ago is he was one of these people who decided to fight for workers' rights in this country. He believed that people who were coal miners and went into a coal mine ought to be able to expect, one, a fair wage; two, they ought to expect to be able to work in a safe workplace; they ought to have the right to organize and fight for those things. For that, he was shot 54 times.

For over a century, beginning with that, we dramatically, and through great difficulty, improved standards in this country. We demanded safe workplaces, fair labor standards, and all these things that would raise people up. We expended the middle class and created a country that is extraordinary, a middle class in which they could find good jobs that paid well and had decent fringe benefits. They negotiated for decent health care and retirement benefits. We did something extraordinary in this country. That didn't happen by accident.

At this point, all around the country, with middle-income workers, they see a retraction of those things, a downward pressure on their income, much less job security, and too many workers being treated akin to wrenches—use them up and throw them away. If you pay \$11 an hour, that is too much. You find workers for \$8 an hour, with no experience. Terrific. Or you can pay 30 cents an hour in China; that is even better.

You may say, what does that have to do with this bill? A lot, in my judgment. That is what pushes me to come to the floor on these amendments—not because I wish to hear myself talk or because I wish to take on friends but because I think the direction we are headed in is wrong. Yes, we have an immigration problem. I accept that and I understand that. I believe the first step to resolving it is border security because, otherwise, 10 or 15 years from now, we will be back with another immigration problem, and we will understand there was not border security. Those who tell us there is border security are the same ones who tell us, as Janet Napolitano says, that if we build a 50-foot fence, they will get a 51-foot ladder. You can't stop it, so declare it legal. Illegal immigration is going to occur, like it or not; therefore, let's have a temporary worker program. I disagree with that.

The fact is, I don't know all the nuances of what happened this week. I know this: The price for the support of the national Chamber of Commerce in the last bill brought to the Senate—the price for the support of the U.S. Chamber of Commerce was to allow them to bring in this cheap labor in the form of guest or temporary workers. I didn't support it then; I don't support it now.

We have 1.2 million people who came in legally last year. I support that process. That is a quota system. The process works. We refresh and nurture this country with immigrants. So 1.2 million were allowed in under the legal immigration system last year. That doesn't count the agricultural workers who would come in under the AgJobs program in this bill. That is another 1 million-plus people.

I also understand the urging and the interest to try to be sensitive in resolving the status of people who have been here a long time. Yes, they came without legal authorization, but they have been model citizens. They have lived up the block, down the street, and on the farm, and they have been among us and raised their families and gone to school; they have good jobs. Should we resolve their status with some sensitivity? Of course, I fully support that. But you do not resolve that, in my judgment, by pointing to December 31 of last year and saying, by the way, anybody who came across December 31 of last year and prior to that is considered to have legal status in our country. That is the wrong way to resolve it.

Let me do two things. Let me urge my colleagues to support a 5-year sunset on this legislation. Let me say a second time to those with whom I disagree, I respect their views. I disagree strongly with them. I mean no disrespect on the floor of the Senate about the views they hold. They perhaps hold them as strongly as I hold my views. I believe in my heart, when you look at people who got up this morning and got dressed and went to work, many of whom packed a lunch

bucket, they came home and took a shower after work because they work hard and sweat, those people want something better for their lives in this country. They want the ability to get ahead and to get a decent wage for their work.

Regrettably, all too often, that is being denied them by a strategy that says this country values cheap labor.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The senior Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I rise in opposition to the proposal of the Senator from North Dakota. I appreciated over the period of these days the good exchanges we have had on the issues of the labor conditions in this country, which is what this legislation is all about.

I am going to put a chart behind me that describes the circumstances of what is happening to undocumented workers and to American workers in New Bedford, MA. This is a picture of a company in New Bedford, MA. This was taken probably in the last 4 weeks. These were the undocumented workers in New Bedford. This sweatshop is replicated in city after city all over this country. One of the key issues is: Can we do something about it? We say yes, and we say our legislation makes a very important downpayment to making sure we do.

Many of these individuals—not all—are undocumented workers. This is what happened to these workers. These workers were fined for going to the bathroom; denied overtime pay; docked 15 minutes pay for every minute they were late to work; fired for talking while on the clock; forced to ration toilet paper, which typically ran out before 9 a.m. So this is the condition in sweatshops in New Bedford, MA.

These conditions exist in other parts of my State, regrettably, and other parts of this country. Why? Because we have, unfortunately, employers who are prepared to exploit the current condition of undocumented workers in this country—potentially, close to 12½ million are undocumented. Because they are undocumented, employers can have them in these kinds of conditions. If they don't like it, they tell them they will be reported to the immigration service and be deported. That is what is happening today.

I yield to no one in terms of my commitment to working conditions or for fairness and decency in the workplace. That is happening today. The fact that we have those undocumented workers and they are being exploited and paid low wages has what kind of impact in terms of American workers? It depresses their wages. That should not be too hard to grasp. Those are the facts.

Now what do we try to do with this legislation? We are trying to say: Look, the time of the undocumented is over. You are safe. You will not be deported. Therefore, you have labor protections. If the employer doesn't do

that, you have the right to complain, a right to file something with the Labor Department, and we are going to have a thousand labor inspectors who are going to go through the plants in the country to make sure you are protected. That doesn't exist today. It will under this legislation.

So what we are saying is that those who are coming in to work temporarily are going to be treated equally under the U.S. labor laws. Employers must provide them workers' compensation. So if something happens to them in the workplace, they will be compensated rather than thrown out on the street. Employers with histories of worker abuse cannot participate in the program. There are the penalties for employers who break the rules, which never existed before.

Now, we say: Well, you may very well be taking jobs from American workers. That is the question. What do you have to do to show that you are not going to take jobs from American workers? Well, if the employer wants to hire a guest worker, the employer must advertise extensively before applying for a temporary worker. The employer must find out if any American responds to that. If they do, they get the job. So the employer has to advertise and the employer must hire any qualified American applicant. Temporary workers are restricted in areas with high unemployment, and employers cannot undercut American wages by paying temporary workers less.

So we are saying the temporary workers are going to come in and be treated as American workers, and those who are undocumented are going to be treated as American workers. That is not the condition today. That is the condition in this legislation. How do we get there? Well, we get there with a comprehensive approach. What do you mean by a comprehensive approach? We are saying a comprehensive approach is that you are going to have border security. That is part of it. But you are also going to have the opportunity for people who are going to come in here through the front door—if you have a limited number of people coming in through the front door, and that number is down to 200,000 now, they will be able to come through the front door, and they will be able—in areas where American workers are not present, willing or able to work—to work in the American economy, with labor protections, which so many do not have today.

But we are going to have to say you need a combination of things—the security at the border. You have a guest worker program which is part of the combination. Is that it? No, no, it is not it. You have to be able to show your employer that you have the biometric card to show that you are legally in the United States. Therefore, you have rights. If that employer hires other people who do not have that card, they are subject to severe penalties. That doesn't exist today.



So when we hear all these voices about what is happening about the exploitation of workers, that happens to be true today. But those of us who have been working on this are avoiding that with the proposal we have on this particular issue.

Included in this proposal—the Senator makes a very good point, although I never thought we sunsetted the Bankruptcy Act. I wish we had. In this legislation, we have the provisions which set up and establish a commission. The commission in the legislation does this: In section 412 we say: Standing commission on immigration and labor markets. The purpose of the commission is what? To study the non-immigrant programs and the numerical limits imposed by law on admission of nonimmigrants; to study numerical limits imposed by law on immigrant visas, to study the limitations throughout the merit-based system, and to make recommendations to the President and the Congress with respect to these programs.

So we have included in this legislation a very important provision to review the program we have. That panel is made up of representatives of the worker community, as well as the business community to make these annual reports to Congress about how this program is working so that we will then be able to take action: Not later than 18 months after date of enactment and every year thereafter, submit a report to the President and the Congress that contains the findings, the analysis conducted under paragraph 1; make recommendations regarding adjustments of the program so as to meet the labor market needs of the United States.

What we have built into this is a proposal to constantly review this program and report back to the Congress, so if we want to make the judgment to change the numbers, the conditions, the various incentives, we have the opportunity to do so. We believe—and I think the Senator makes a valid point—that it is useful to have self-corrective opportunities. He would do it by ending the program, by finishing it, by sunseting it. We do it by having a review by people who can make a judgment and a decision and give information to Congress so that we can do it.

There is one final point I wish to make. We have a system, as the Senator from North Dakota pointed out, where people will work here, go back to their country of origin for a period of time, come back to work, go back to their country, and come back to work. Under our proposal, they get a certain number of points under the merit system which help move them on a pathway toward a green card and toward citizenship.

I wish that merit system could be changed in a way that favored workers more extensively and provided a greater balance between low skill and high skill because the labor market demands both. If you read the reports of the Council of Economic Advisers, you

find there is a need for high skill, but 8 out of the 10 critical occupations are also low skill. We have tried, during this process, to see if we couldn't find equal incentives for both.

It is a fair enough criticism to say this merit system is more skewed toward the high skilled than it is toward the low skilled, but there are still very important provisions and protections in there for low skilled, and there are additional points added in case of family associations or if you are a member of an American family.

I really do not see the need. We moved from 400,000 down to 200,000. This is a modest program at best. We have in the legislation the report that will be made available to the Congress on a variety of areas. We have been very careful to make sure that everyone who is going to participate in this program, who is going to come in legally, is going to have the protections for working families today. That doesn't exist today. This legislation does protect them. The amendment of the Senator from North Dakota would cut out those provisions with regard to the temporary worker program.

The fact is, we need some workers in this country. All of us will battle and take great pride in being the champion of the increase in the minimum wage, and I commend my friend from North Dakota for his support over the years in increasing the minimum wage. We are very hopeful that we are going to finally get that increase in the next couple of days as part of this other legislation, the supplemental. We will be out here trying to get further increases in protections for American workers.

This is a modest program. It has the self-corrective aspect to it. It is a program that ought to be tried, and it ought to be implemented.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The senior Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, recognizing the good-faith interest of the Senator from North Dakota in proposing this amendment, I nonetheless believe it should be rejected by the Senate. What the Senator from North Dakota has here is a fallback position. He offered an amendment yesterday to eliminate the guest worker program. Having failed there, he has a fallback position of trying to have it sunsetted.

There is no doubt about the need for guest workers in our economy. Last year in the Judiciary Committee, we held extensive hearings on this matter. We did not hold hearings this year, and we did not process this legislation through the Judiciary Committee, which in retrospect may have been a mistake, but here we are. But we have an ample record from last year.

We had the testimony of Professor Richard Freeman from Harvard outlining the basic fact that immigration raises not only the GDP of the United States because we have more people now to do useful activities, but it also

raises the part of the GDP that goes to the current residents in our country.

We heard testimony from Professor Henry Holzer of Georgetown University to the effect that immigration is a good thing for the overall economy. "It does lower costs. It lowers prices. It enables us to produce more goods and services and to produce them more efficiently."

The executive director of the Stanford Law School program on law, economics, and business, Dan Siciliano, testified that there is a "mismatch between our U.S.-born workers' age, skills, and willingness to work, and the jobs that are being created in the economy, in part as a function of our own demographics, whether they be elder care, retail, daycare, or other types of jobs."

There is no doubt that there is a tremendous need for a guest worker program in our restaurants, hotels, on our farms, in landscaping, wherever one turns.

The Assistant Secretary of Policy at the U.S. Department of Labor testified earlier this month before the House Immigration Subcommittee that there are three fundamental reasons the United States needs immigrants to fuel our economy. That is the testimony of Assistant Secretary Leon Sequeira. The reasons he gives are that we have an aging workforce; we do not have enough people of working age to support the economy and support the social welfare programs, such as Social Security for the aging population; and immigrants contribute to innovation and entrepreneurship.

The chart which had been posted shows that the guest worker program is being treated fairly. Senator KENNEDY has outlined in some detail the review and analysis of the program, so the Congress is in a position to make modifications, if necessary.

After the laborious efforts in producing this bill, it would be my hope that we would not have to revisit it on an automatic basis in 5 years. If we find a need to do so, we will be in a position to undertake that review and to have congressional action if any is warranted. But on the basis of the record we have before us, I think this amendment ought to be rejected, and I urge my colleagues to do just that.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, unless the Senator from North Dakota wishes to briefly respond to Senator SPECTER, let me speak for 3 or 4 minutes.

I join Senator SPECTER in urging our colleagues to defeat this amendment. This is simply a light version of the amendment we defeated a couple days ago that would have eliminated the temporary worker program.

The problem here is twofold. First, there has been a basic agreement that even though Republicans generally did not want to allow illegal immigrants to remain in the United States and, in some situations, be permitted to stay

here for the rest of their lives, if that is their desire, and even get a green card and ultimately become citizens, there was an understanding that certain tradeoffs had to occur if we were going to get legislation. Part of the legislation does enable some 12 to 15 million people to have that right, as well as immigrants whose applications are pending, many of whom have no reasonable expectation of being able to naturalize, to actually be able to come here and get green cards and naturalize, perhaps some 4 million people.

If we have a temporary worker program, which is part of what Senators such as myself were proposing to relieve our labor shortages, if that program is only in existence temporarily but these other benefits are conferred permanently, you can see that you have a significant imbalance in the legislation.

Somebody said: What is mine is mine, and what is yours is up for grabs. In other words, one side pockets the ability of all the illegal immigrants to stay here, to get citizenship rights if they go through all of the process that enables them to do that, but the temporary worker program, which is desired by many in the business community and many foreign nationals who want the opportunity to come here and work, is only going to be temporary, and that might go away. That is not a fair way to proceed to the legislation, to have what you like is permanent, what I like is only temporary.

But there is a deeper problem. The whole point of having a temporary worker program is to ensure we are going to meet our labor needs in the future. We don't know exactly what those labor needs are, but they are going to be substantial. If you cannot plan with certainty that you know you can expand your business, you can make the capital investment in whatever the business is—let's say a meatpacking plant—that you are going to need some foreign nationals to come here on a temporary basis with a temporary visa to meet the employment needs because you found in the past that there are not sufficient Americans who have applied for that kind of work in the past, so you know you are going to need the temporary worker program, but you don't know whether that program is going to be in existence in 5 years, are you going to make the capital investment necessary? Are you going to be able to provide more tax base, more employment opportunities for Americans, as well as others, provide for more consumer choice in the country if you don't know you are going to have the labor force necessary to meet your needs?

Having a temporary worker program is not going to meet our long-term needs. As a result, I suggest that for planning purposes, for being able to know that labor pool is going to be available if we need it, we are going to have to have this temporary worker program. Therefore, there is not very

much difference between simply eliminating the program now and saying in 5 years it is going to evaporate unless we take steps to reinstate it.

I urge my colleagues to vote against the amendment. We defeated an amendment a few days ago. This is a killer amendment. Everybody knows that if this program goes away, it undercuts the entire program we tried to craft in a bipartisan way. We have to relieve the magnet of illegal employment in this country. That magnet is jobs that Americans won't do. As long as there is an excess of labor demand over supply, that magnet for illegal immigration is going to continue to pull people across our borders. That magnet is demagnetized when we have a temporary worker program that says we now have a legal way for you to meet your labor needs. It can be done within the rule of law. It is based on temporary workers. We need to keep that in this bill. It cannot be subject to some kind of a sunset so that it disappears 5 years from now and we have no idea at that point how to meet our labor needs.

I urge my colleagues, as we did 2 days ago, to reject the Dorgan amendment.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. SPECTER. Will the Senator yield to me for a very brief unanimous consent request?

Mr. DORGAN. Mr. President, of course I will yield.

The PRESIDING OFFICER. The senior Senator is recognized.

#### AMENDMENT NO. 1168, AS MODIFIED

Mr. SPECTER. Mr. President, I ask unanimous consent that the previously agreed to Hutchison amendment No. 1168 be modified to read "on page 7, line 2."

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

Mr. KENNEDY. Will the Senator yield for a request?

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask unanimous consent that at 12:15 p.m., the Senate proceed to a vote in relation to the Akaka amendment No. 1186, to be followed by a vote in relation to the Coleman amendment No. 1158; that no amendments be in order to either amendment prior to the vote; that there be 2 minutes of debate equally divided and controlled in the usual form prior to each vote and that the second vote in the sequence be 10 minutes in length; further, that at 2:15 p.m., the Senate proceed to vote in relation to the Dorgan amendment No. 1181, with 5 minutes of debate equally divided and controlled in the usual form prior to the vote, with no amendment in order to the Dorgan amendment prior to the vote, all without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Reserving the right to object, Mr. President, I ask only

that the Senator from Massachusetts amend the request to give Senator COLEMAN 5 minutes before the 12:15 vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, reserving the right to object, Senator DURBIN will ask to speak for 10 minutes, and we will do that in addition to the 10 minutes I will want to speak before my vote, if that is acceptable.

The PRESIDING OFFICER. Without objection, the amended unanimous consent request is agreed to.

Mr. KENNEDY. Mr. President, as I understand the request, the time the Senator is getting is prior to his vote at 2:15.

Mr. DORGAN. Prior to my vote.

Mr. KENNEDY. And there will be time prior to that available as well for the Senator from Illinois.

Mr. SPECTER. Mr. President, following the entry of that unanimous consent request, I would ask the Senator from Massachusetts if we could call up the McCain amendment with the modification change which is at the desk and ask that it be adopted.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside and the Kennedy unanimous consent request, as amended by Senator DORGAN and Senator SPECTER, is agreed to.

#### AMENDMENT NO. 1190, AS MODIFIED

Mr. SPECTER. Mr. President, I urge adoption of the McCain amendment with the modifications which are at the desk.

The PRESIDING OFFICER. The clerk will report the amendment, as modified.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for Mr. MCCAIN, for himself, Mr. GRAHAM, and Mr. BURR, proposes an amendment numbered 1190, as modified, to amendment No. 1150.

The amendment, as modified, is as follows:

On page 293 redesignate paragraphs (3) as (4) and (4) as (5).

On page 293, between lines 33 and 34, insert the following:

"(3) PAYMENT OF INCOME TAXES.—

"(A) IN GENERAL.—Not later than the date on which status is adjusted under this section, the alien establishes the payment of any applicable Federal tax liability by establishing that—

"(i) no such tax liability exists;

"(ii) all outstanding liabilities have been paid; or

"(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

"(B) APPLICABLE FEDERAL TAX LIABILITY.—For purposes of clause (i), the term 'applicable Federal tax liability' means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required by subparagraph (D)(i) for which the statutory period for assessment of any deficiency for such taxes has not expired.

"(C) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation

to an alien upon request to establish the payment of all taxes required by this subparagraph.

“(D) IN GENERAL.—The alien may satisfy such requirement by establishing that—

“(i) no such tax liability exists;

“(ii) all outstanding liabilities have been met; or

“(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service and with the department of revenue of each State to which taxes are owed.

Mr. MENENDEZ. Mr. President, reserving the right to object, would somebody tell the body what the McCain amendment is?

Mr. SPECTER. Yes. As I had explained earlier this morning, the McCain amendment has a provision for the payment or a requirement of the payment of back Federal taxes.

Mr. MENENDEZ. The payment of back Federal taxes?

Mr. SPECTER. Mr. President, it calls for payment of back Federal taxes.

Mr. MENENDEZ. Mr. President, I have not had an opportunity to see the amendment, so I would object at this time. I may not ultimately object, but I would object at this time.

The PRESIDING OFFICER. The objection of the Senator from New Jersey is acknowledged.

The Senator from North Dakota is recognized.

#### AMENDMENT NO. 1181

Mr. DORGAN. Mr. President, my colleague from Arizona used the dreaded words “killer amendment.” It is like killer bees and killer whales. On the Senate floor, it is “killer amendment.” Pass this amendment, and we will kill the bill, we are told.

I said yesterday that it is like the loose thread on a cheap sweater: You pull the thread, and the arm falls off or, God forbid, the whole thing comes apart. It is not just this bill. This happens every single time a group of people bring a bill to the floor of the Senate. If you amend it, if you change our work, then somehow you kill what we have done. Of course, that is not the case at all.

Let me talk about a couple of the items that have been raised. Worker protection. The workers in New Bedford, MA. Let me describe to you a worker in the Gulf of Mexico just after Hurricane Katrina hit. His name is Sam Smith. Sam Smith was an electrician. Just after Katrina hit, he knew there was going to be a lot of reconstruction work. Sam Smith was a skilled craftsman, an electrician. He was told by an employer that he could come back and take a \$22 an hour job—\$22 an hour—for work as an electrician. The job would last 1 year. It only lasted a couple weeks. I don’t have the picture to show you, but I have had it here on the floor before to show what Sam Smith faced, and it was a picture very similar to New Bedford, MA. Those who came into this country, presumably illegally, living in squalid conditions, being given very low wages to take the work Sam Smith was promised.

What is the solution? Well, the fact is, in New Bedford, MA, and in this case, the employer is guilty, in my judgment, of mistreating its workers. We have worker protection laws in this country. We have worker protections. If an employer abuses them in New Bedford, MA, or New Orleans, LA, that employer is responsible. Law enforcement is responsible to investigate and prosecute.

That is not what this bill is about. My colleague says, well, the way to resolve the situation in New Bedford, MA, is to make the illegal immigrants working there legal. Just describe them as legal. Would that be the way you would handle it in New Orleans, LA, to say, well, the people who came in to take Sam’s job should be deemed legal? I don’t think so. Why not punish the employer for abusing the rights of these immigrant workers and why not restore those jobs to those who were the victims of the hurricane in the first place? Is the principle here that we describe the problem as mistreatment of workers who are illegal immigrants, and therefore what we will do is deem them legal to hold those jobs and therefore expect some other kind of behavior by the employer? I don’t think so. So that is a specious argument, frankly. We have worker protection laws. They ought to be enforced. If they are not enforced, there is something wrong with the system.

Now, one of my colleagues says there is no doubt that we need additional workers. Oh yes, there is doubt—probably not in the U.S. Chamber of Commerce. There is no doubt they want additional cheap labor. But there is plenty of doubt.

My colleague says there is an economist from Harvard who says this raises the GDP, this bringing in of immigrant labor, presumably illegal labor, determining that they are then legal once they have come across illegally. It raises the GDP. Well, you can get a Harvard economist to say anything you want. We all know that.

Let me describe my Harvard economist—my Harvard economist, Professor George Borjas. Here is what he says. The impact of immigration between 1980 and 2000 on U.S. wages is lower wages in this country, and he describes which ethnic group is hurt the worst. Hispanics are hurt the worst and Blacks next.

My colleague says that his Harvard economist states that one of the benefits of bringing in this additional labor from outside of our country is lower costs. Well, in my hometown, I understand what lower costs means. It means they are going to pay less to the people making it. That is called lower wages. And that is exactly what my Harvard professor says is the case.

The PRESIDING OFFICER. The Senator will suspend.

Under the previous order, the Senator from Minnesota is recognized for 5 minutes.

Mr. DORGAN. Mr. President, I profoundly misunderstood the unanimous

consent request. That is my fault, not the Presiding Officer’s. I will ask consent, of course, to speak after the break for the luncheons, and I guess we have in order 10 minutes for me and 10 minutes for Senator DURBIN prior to the vote on my amendment; is that correct?

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I am not going to object to the time. The Senator ought to have wrap-up on this. But if we can have the 5 minutes prior to the Senator’s last 5 minutes, I would be agreeable.

Mr. DORGAN. One of the things I am good at is wrapping up. So let me wrap up in 2 minutes by going through this grid so that we would then recognize Senator COLEMAN for the time he has been given.

The PRESIDING OFFICER. Is there objection?

Mr. COLEMAN. Mr. President, reserving the right to object, there is a unanimous consent agreement that says the vote starts at 12:15. I want to make sure everything is pushed back accordingly, if there is an extra 2 minutes here.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I will yield the floor to the Senator from Minnesota. I will have time to wrap up. If we are in a time requirement, I will yield the floor and find time elsewhere.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

#### AMENDMENT NO. 1190

Mr. COLEMAN. Mr. President, I first ask unanimous consent that the McCain amendment, No. 1190, which was called up as modified, with the changes at the desk, be adopted.

The PRESIDING OFFICER. Is there objection?

Mr. MENENDEZ. Reserving the right to object, is this the same amendment that was just offered a few minutes ago?

Mr. COLEMAN. Yes.

Mr. MENENDEZ. I have no objection.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1190), as modified, was agreed to.

Mr. MCCAIN. I thank the bill managers for agreeing to accept this amendment, which I am pleased to be joined in sponsoring with Senator GRAHAM.

As my colleagues will hear throughout this debate, the bipartisan group of Members who developed this legislation, along with representatives of the administration, worked to develop this comprehensive reform measure with the foremost goal of developing a proposal that can be enacted this year. It is not a bill on which we are just “going through the motions.” Like any legislation on an expansive issue like immigration reform, this is a complex

compromise agreement, and that means that while perhaps no one is entirely happy with every single provision in the bill, we believe it provides a solid foundation for this floor debate. It is a serious proposal to address a very serious problem.

When Senator KENNEDY and I first proposed legislation in May 2005, it included, among other things, a series of strict requirements that the undocumented population would have to fulfill before being allowed to get in the back of the line and apply for adjustment of legal status. One of those provisions failed to be part of the consensus before us today due to concerns raised with respect to practicality. That provision required the undocumented to pay any back-taxes owed as a result of their time living and working in our country illegally.

I strongly believe everyone living and working in our country has an obligation to meet all tax obligations, regardless of convenience or practicality. Yes, requiring any undocumented immigrant to prove he or she has met their tax obligations will take manpower. After all, we are talking about as many as 12 million people. Undocumented immigrants will most likely have to find and submit plenty of paperwork to prove they have met their obligations. But that is what citizens here do. We pay our taxes. We may complain, but we pay our taxes. And while I don't doubt that it may be a difficult undertaking to require as a condition of receiving permanent status in the United States the payment of back-taxes, that isn't a good reason to toss the requirement aside. If an undocumented immigrant is willing to meet the many stringent requirements we are calling for under this bill, and I think they will be willing, including learning English and civics, paying hefty fines, and clearing background checks, that person should also have to prove their tax obligations have been fulfilled prior to adjusting their status.

Again, I thank the bill managers and urge the adoption of this amendment.

Mr. BURR. Mr. President, I support the amendment offered by Senator MCCAIN that requires the collection of back taxes from those who have worked in our country illegally and seek future adjusted status.

As one of the Founders of our Nation, Benjamin Franklin, wisely acknowledged long ago, "In this world, nothing is certain but death and taxes." All individuals enjoying the American lifestyle have to pay taxes. As burdensome, painful, and onerous as the process may be, anyone who lives and works in the United States has the responsibility to pay Uncle Sam. The people whose legal status is affected by this bill should be no different. If they have worked in our country illegally, they should not get a free-ride when it comes to paying the tax obligations they have avoided for the time that they have been here.

Undocumented aliens who seek to assimilate into our society and want to

become American citizens have high hurdles to overcome—and that is the way it should be. Those who want to become a part of our great country must come out of the shadows, tell us who they are, pay heavy fines, return to their country, learn English, consistently hold a job, follow the law, and they should also have to pay their tax obligations. There is no doubt that these requirements will be difficult to achieve for those seeking adjusted status—both practically and financially. However, this additional requirement is absolutely necessary. Payment of back taxes for unauthorized work is not only financially critical, it is morally right.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

AMENDMENT NO. 1158

Mr. COLEMAN. Mr. President, I just want to, in perhaps less than 5 minutes, address the amendment we are going to vote on in a little bit, at 12:35. It is a simple amendment.

There is existing Federal law which says that municipalities may not restrict in any way—the language is very clear—in any way prohibit or restrict any governmental entity from sharing information with Federal authorities about immigration status. It is the law. The law says you can't restrict from sending, maintaining, or exchanging. What has happened is that some cities—referred to as so-called sanctuary cities—have adopted policies to circumvent what has been Federal law since 1996. I want my colleagues to understand that this is an amendment to a bill that, if passed, will end the need for sanctuary cities. If passed, this bill will allow folks to come out of the shadows and into the light. The only folks who won't come into the light will be those folks who have criminal problems. In other words, if this bill is passed with this amendment, it will allow folks to come out of the shadows, a concept that I support, and I want to make sure we do the right thing.

In the existing bill, we are telling employers they cannot create a sanctuary, they cannot create a haven for illegal aliens. We are saying to them that if they do, they will be penalized. If we do that, we should also then go to those cities or communities which are creating these sanctuaries and say to them that everyone is going to follow the rule of law, everyone is going to.

I think one of the challenges we face in getting the public to accept what we are trying to do is that there is a sense that somehow we are not following the rule of law. So this is very simple. If we are telling employers that they cannot provide a sanctuary, that they cannot shield individuals, then we have to tell the same thing to cities and to communities.

Lastly, there are those who say: Well, this is going to impact crime victims. The reality is that these sanctuary cities protect criminals. They are not limited. It protects criminals.

So if we pass the underlying bill, folks can come out of the shadows. And for those who want to stay in the shadows, they should not get sanctuary by a city policy that is in contravention to existing Federal law. I believe those policies violate existing Federal law and in doing so protect criminals.

Let's uphold the rule of law. Let's do what is the right thing and the fair thing, and let's support this amendment, which, again, very simply—very simply—requires cities and communities to comply with what has been Federal law since 1996. Let's tell the public that this bill is about respecting the law at every phase.

I hope my colleagues will support my amendment to get rid of this concept of sanctuary cities.

Mr. KENNEDY. Mr. President, I wonder if the Senator will yield the last minute and a half to the Senator from Colorado. Would he be willing to do that?

Mr. COLEMAN. I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I thank my friend from Minnesota for yielding me a minute and a half of time. I come to the floor to speak against his amendment, No. 1158. At the end of the day, what his amendment would do—it appears to be innocuous on its face—it would essentially make cops out of emergency room workers, out of school teachers, and out of local and State cops.

The reality is that we have a responsibility at the Federal Government to make sure we are enforcing our immigration laws as a national government. We ought not to put emergency room workers, we ought not to put school teachers in a position where they have to be the cops of our immigration laws in our country. New York City Mayor Bloomberg, in his own statement in opposition to this amendment, said:

New York City cooperates fully with the Federal Government when an illegal immigrant commits a criminal act. But our city's social services, health and education policies are not designed to facilitate the deportation of otherwise law-abiding citizens.

Do we want somebody by the name of Martinez simply to go into an emergency room and to have that emergency room responder be in a position where he has to act as a cop because he suspects somebody named Martinez might be illegal?

This is a bad amendment. It will create problems. I urge my colleagues to oppose it.

AMENDMENT NO. 1186

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, on amendment No. 1186, offered by the Senator from Hawaii, Mr. AKAKA. Who yields time?

Mr. KENNEDY. Mr. President, I see the Senator from Hawaii. Could we delay the 1 minute? I ask unanimous consent we delay the 1 minute for 30 seconds.

Mr. President, I yield myself 1 minute.

I thank the Senator from Hawaii, Senator AKAKA. He has brought to the Senate the fact that there are about 20,000 immediate relatives of courageous Filipino families who served with American forces in World War II. They would be entitled under the other provisions of the bill to come here to the United States. This particular proposal moves this in a more expeditious way. These are older men and women who have been members of families who served with American fighting forces in World War II. He offered this before. It was accepted unanimously. I hope the Senate will accept a very wise, humane, and decent amendment by the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized for 1 minute.

Mr. AKAKA. Mr. President, I thank the chairman for bringing this forward. My amendment seeks to address and resolve an immigration issue that, while rooted in a set of historical circumstances that occurred more than seven decades ago, still, and sadly, remains unresolved today. It is an issue of great concern to all Americans who care about justice and fairness. It goes back to 1941, when President Roosevelt issued an Executive order, drafting more than 200,000 Filipino citizens into the United States military. During the course of the war, it was understood that the Filipino soldiers would be treated like their American comrades in arms and be eligible for the same benefits. But this has never occurred.

In 1990, the World War II service of Filipino veterans was finally recognized by the U.S. Government and they were offered an opportunity to obtain U.S. citizenship. Today we have 7,000 Filipino World War II veterans in the United States. The opportunity to obtain U.S. citizenship was not extended to the veterans' sons and daughters, about 20,000 of whom have been waiting for their visas for years.

While the Border Security and Immigration Reform Act of 2007 raises the worldwide ceiling for family-based visas, the fact remains that many of the naturalized Filipino World War II veterans residing in the United States are in their eighties and nineties, and their children should be able to come to America to take care of their parents. My amendment makes this possible. I urge my colleagues to support my amendment and to make this come through for our Filipino veterans and their families.

The PRESIDING OFFICER. The time of the Senator has expired. The question is on agreeing to amendment No. 1186, offered by Senator AKAKA.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHN-SON) is necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from North Carolina (Mr. BURR), and the Senator from Wyoming (Mr. THOMAS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 9, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—87

Akaka	Domenici	McConnell
Alexander	Dorgan	Menendez
Allard	Durbin	Mikulski
Baucus	Ensign	Murkowski
Bayh	Feingold	Murray
Bennett	Feinstein	Nelson (FL)
Biden	Graham	Nelson (NE)
Bingaman	Grassley	Obama
Bond	Hagel	Pryor
Boxer	Harkin	Reed
Brown	Hatch	Reid
Byrd	Hutchison	Roberts
Cantwell	Inouye	Rockefeller
Cardin	Kennedy	Salazar
Carper	Kerry	Sanders
Casey	Klobuchar	Schumer
Clinton	Kohl	Shelby
Coburn	Kyl	Smith
Cochran	Landrieu	Snowe
Coleman	Lautenberg	Specter
Collins	Leahy	Stabenow
Conrad	Levin	Stevens
Corker	Lieberman	Tester
Cornyn	Lincoln	Thune
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeMint	Martinez	Webb
Dodd	McCain	Whitehouse
Dole	McCaskill	Wyden

NAYS—9

Bunning	Gregg	Sessions
Chambliss	Inhofe	Sununu
Enzi	Isakson	Vitter

NOT VOTING—4

Brownback	Johnson
Burr	Thomas

The amendment (No. 1186) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. HAGEL. Mr. President, I ask unanimous consent that I be registered in favor of vote No. 176, the Akaka amendment. My change will not affect the outcome. I ask unanimous consent that my vote be changed from "nay" to "yea."

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 1158

Mr. KENNEDY. Mr. President, I understand there is 2 minutes evenly divided. I yield our minute to the Senator from New Jersey.

The PRESIDING OFFICER. Under the previous order there will be 2 minutes equally divided on amendment 1158, offered by the Senator from Minnesota.

The Senator from Minnesota is recognized.

Mr. COLEMAN. Mr. President, I want my colleagues to listen. I want my colleagues to understand there is nothing in this amendment that requires teachers, hospital workers, anyone, to do anything. What it simply does is it lifts a gag order. It lifts a policy and a practice in some cities that gags police officers from doing their duty, from complying with what has been Federal law since 1996.

There is no requirement that anybody do anything. It lifts the gag order. There was testimony by Houston police officer John Nichols before the House Judiciary subcommittee. He said this: When we shackle law enforcement officers in such a manner, instead of protecting U.S. citizens and people here legally, the danger to society greatly increases by allowing potentially violent criminals to freely roam our streets.

If the underlying bill is passed, there should be no need for sanctuary cities. The only folks who will want to remain in the shadows will be those who do not want anyone to know they are in the shadows. These present sanctuary cities, if the law passes, will protect criminals, and we should again get rid of the gag order. That is all this amendment does.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 minute.

Mr. MENENDEZ. Mr. President, this amendment undoes what State and local police have long sought to do, separate their activities from those of Federal immigration orders, because they understand some of the toughest law enforcement people in this country want the freedom to be able to communicate with immigrant communities so they come forth and talk about crimes. The standard the Senator offers here is probable cause. Probable cause what? Based on what? My surname, Menendez? Salazar? Martinez? Probable cause how? The way I look? Probable cause, the accent I have? Is that the probable cause that leads an ambulance worker or a municipal hospital worker to ask when somebody is being rolled in? This leads to the opportunity for racial profiling. This leads to the opportunity when we have disease spreading, such as tuberculosis, for people, not coming forth to report themselves, this leads to a woman who has been the subject of domestic violence not reporting herself. This is clearly not in the interest of our country. I believe it is discriminatory. It leads to racial profiling. It is not necessary for the pursuit of law enforcement.

I urge my colleagues to vote no.

The PRESIDING OFFICER (Mr. TESTER). All time has expired.

The question is on agreeing to amendment No. 1158.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHN-SON) is necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Wyoming (Mr. THOMAS).

The PRESIDING OFFICER (Mrs. MCCASKILL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 177 Leg.]

#### YEAS—48

Alexander	Craig	McCain
Allard	Crapo	McCaskill
Baucus	DeMint	McConnell
Bayh	Dole	Murkowski
Bennett	Dorgan	Nelson (NE)
Bond	Ensign	Pryor
Bunning	Enzi	Roberts
Burr	Grassley	Sessions
Byrd	Gregg	Shelby
Chambliss	Hatch	Smith
Coburn	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Isakson	Tester
Collins	Kyl	Thune
Corker	Landrieu	Vitter
Cornyn	Lott	Warner

#### NAYS—49

Akaka	Hagel	Nelson (FL)
Biden	Harkin	Obama
Bingaman	Inouye	Reed
Boxer	Kennedy	Reid
Brown	Kerry	Rockefeller
Cantwell	Klobuchar	Salazar
Cardin	Kohl	Sanders
Carper	Lautenberg	Schumer
Casey	Leahy	Snowe
Clinton	Levin	Specter
Conrad	Lieberman	Stabenow
Dodd	Lincoln	Voinovich
Domenici	Lugar	Webb
Durbin	Martinez	Whitehouse
Feingold	Menendez	Wyden
Feinstein	Mikulski	
Graham	Murray	

#### NOT VOTING—3

Brownback	Johnson	Thomas
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The amendment (No. 1158) was rejected.

Mr. DURBIN. I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 1199 TO AMENDMENT NO. 1150  
(Purpose: To increase the number of green cards for parents of United States citizens, to extend the duration of the new parent visitor visa, and to make penalties imposed on individuals who overstay such visas applicable only to such individuals)

Mr. DODD. Madam President, I ask unanimous consent that the pending amendment be set aside and send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, reserving the right to object—and I do not intend to object—my friend from Connecticut has an amendment that

deals with family reunification. We have several other amendments—Senator MENENDEZ and Senator CLINTON have other amendments—dealing with family and family reunification. This is going to be a very important aspect in terms of our debate and the completion of this legislation.

It is our intention to try to consider these amendments in relationship with each other at the appropriate time. We will work with the proponents of each of these amendments. So I will not object, but I would also put in the queue, so to speak, the other—I see Senator MENENDEZ on the Senate floor. He will probably put his in. And we would then put in, I guess, Senator CLINTON's amendment as well.

That is for the general information about how we are going to proceed. But I have no objection.

The PRESIDING OFFICER. Is there objection?

The Senator from New Jersey.

Mr. MENENDEZ. Madam President, reserving the right to object—and I will not object—if the Senator from Massachusetts would yield for a moment for a question.

Mr. KENNEDY. Yes.

Mr. MENENDEZ. Madam President, I have been waiting on the floor of the Senate most of the day to offer an amendment related to families. I will not be objecting to Senator DODD's, which I am a cosponsor of as well. The question is, I assume the Senator may be going to an amendment, after Senator DODD's, on the other side of the aisle, and then I would hope we could come back and that my amendment would be next in order—after the next Republican amendment.

Mr. KENNEDY. Madam President, we thought we would try to take Senator DODD's and yours, and then take two Republican amendments.

Mr. MENENDEZ. That would be fine with me. Thank you.

I withdraw my objection.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered. The amendment will be set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, and Mr. MENENDEZ, proposes an amendment numbered 1199 to amendment No. 1150.

Mr. DODD. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DODD. Madam President, I have spoken about the amendment already, last evening. Again, I have talked to Senator GRAHAM of South Carolina and the Senator from Massachusetts, the manager of this legislation on the floor. My understanding is, at an appropriate time we will have an opportunity to actually vote on these amendments.

Madam President, I rise to offer an amendment to the immigration bill with my good friend from New Jersey, Senator MENENDEZ, that relates to the parents of U.S. citizens. My amendment is simple in what it proposes but enormously important in what it seeks to accomplish.

It prevents this bill from dividing millions of American families by making it easier for U.S. citizens and their parents to unite. As currently written, this bill weakens the principle of family reunification in a way that is harmful to our nation and unfair to our fellow citizens.

Under current law, parents are defined as immediate relatives and exempt from green card caps. Yet this bill drastically and irresponsibly excludes parents from the nuclear family and subjects them to excessively low green card caps and an overly restrictive visa program.

This amendment rights this wrong by increasing the new annual cap on green cards for parents of U.S. citizens; extending the duration of the parent visitor visa; and ensuring that penalties imposed on overstays are not borne collectively.

The debate on this provision goes to the heart of how a family is defined in America. For millions of American citizens, parents are not distant relatives but absolutely vital members of the nuclear family who play a critical role, be it as grandparents providing care for their grandchildren while their parents are at work or as sources of strength and support for their bereaved or single children.

Ensuring that parents have every opportunity to unite with their children or live with them for extended periods is important not only because of their contribution to the nuclear family but also so that their children can support and care for them in sickness and in health.

We all know that sense of duty from our own lives. And for those of us who have lost our parents, we wish we had the opportunity to do so.

That is exactly why it has been our policy to date to allow U.S. citizens to sponsor their parents to come to this country without caps. Yet now we are told that parents are no longer immediate relatives and subject to caps. That parents no longer fit in the same category of relatives as minor children and spouses, an idea that millions of Americans would disagree with.

We are told that we must weaken that principle, thus disrupting the lives of countless law-abiding families, in the name of reducing "chain migration." Well, that is a red herring. The truth is that once parents of citizens obtain immigrant visas, they usually complete the family unit and are unlikely to sponsor others.

That is why today we must do justice to the families of our fellow citizens who seek nothing more than to keep their families intact. This amendment does just that.



First, it increases the new green card cap from 40,000 to 90,000. Ninety thousand is the average number of green cards issued each year to parents who as I mentioned have to date been exempt from caps. Again this is just an average. Last year the number was 120,000.

It is abundantly clear that 40,000 green cards per year is an unreasonably low number. One of the goals of this bill is to clear the backlog on immigrant visa applicants which in some cases extends as far back as 22 years. If we don't allot sufficient numbers of green cards for parents in this bill, we risk creating a whole new category of backlog. Ninety thousand would meet this need.

To those who still think 90,000 is too high a number, I would also argue that it is simply not the place of the Senate to tell our fellow citizens that they should wait a year or two to see their parents. I would ideally not want the parents of any citizen of this country subject to caps but working within the framework of this bill, I believe 90,000 is entirely fair and reasonable.

Second, it extends the parent visitor visa to allow for an aggregate stay of 180 days per year and makes it valid for 3 years and renewable. These are already accepted timeframes for the validity of a visa. Madam President, 180 days is the length of a tourist visa; H-1Bs are valid for 3 years. This would allow those parents who do not want to permanently leave their countries of residence yet want to stay with their children in the U.S. for extended periods the ability to do so.

The current bill however limits the length of this visa to only 30 days per year—30 days. This is far too soon to pry parents away, particularly those who come to America for health reasons, or to care for their children during and after childbirth.

Many parents who live abroad, come to the United States at great expense. They often come from thousands of miles away just to be with their children and grandchildren. To limit them to a 30-day visit per year is simply unacceptable, especially when under a tourist visa, an individual can come to this country for 6 months.

To think that a parent can only be with his or her child or grandchild for 1 month out of 12 is simply unacceptable. Yet under this provision, a tourist can be in America six times longer than a parent of a citizen. That is not the America I know. That is not an America that cherishes family values.

Third, and finally, this amendment prevents collective punishment for parent visa overstay. Under this bill, if the overstay rate exceeds 7 percent for two years, either all nationals of countries with high overstay rates can be barred or the entire program can be terminated.

Needless to say, this form of collective punishment is patently wrong and unjust. We should never punish law abiding individuals on account of the misdeeds of others.

Under this bill, for example, a sponsor could be barred from sponsoring his widowed mother because his father at some earlier date overstayed his visa. That is not the type of law we want on our books. That is not what this country is about. Nor is it about stopping thousands of parents from entering this country because of the misdeeds of some.

This my amendment will unite and strengthen the families of our fellow Americans and the fabric of our society, while upholding the best traditions of this great country. Because as we all know, families are the backbone of our country. Their unity promotes our collective stability, health, and productivity and contributes to the economic and social welfare of the United States.

My amendment does not strike at this bill's core; nor should it be a partisan issue. It is one of basic humanity and fairness for our fellow citizens.

What is at stake here is whether Congress should dictate to U.S. citizens if and when they can unite with their parents; if and when their parents can come and be with their grandchildren; if and when U.S. citizens can care for their sick parents here on American soil.

It is our duty to remove as many obstacles as we can for our fellow citizens to be with their parents. None of us would stand for anyone dictating the terms of that union to us. Why should we then apply a double standard for other citizens of this country? We must craft a law that is tough yet just.

I urge my colleagues not to think of this amendment in terms of numbers and caps, but in terms of its all too real and painful human impact for U.S. citizens.

I urge them to vote for this amendment and to take down the legislative barrier that this bill has stood up between our fellow citizens and their parents.

Again, at the appropriate time, I will ask for a recorded vote on this amendment. I thank my colleague from Massachusetts for allowing us to get in the queue here so that when these matters come up for votes, we will be able to consider them.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

#### CALLING UPON THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN TO IMMEDIATELY RELEASE DR. HALEH ESFANDIARI

Mr. CARDIN. Madam President, I ask unanimous consent to proceed to the immediate consideration of S. Res. 214 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 214) calling upon the Government of the Islamic Republic of Iran to immediately release Dr. Haleh Esfandiari.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CARDIN. Madam President, this resolution brings to the Senate's attention the ongoing plight of Dr. Haleh Esfandiari. Dr. Esfandiari is the director of the Middle East Program at the Woodrow Wilson International Center for Scholars here in Washington, DC. She holds dual citizenship with the United States and Iran and visits her ailing 93-year-old mother twice a year in Iran.

During her return to the United States on her last visit, Dr. Esfandiari's vehicle was robbed by three knife-wielding men. She lost her luggage and her travel documents. Later, when she requested the replacement documents, agents of Iran's Ministry of Intelligence began to question her for hours over the course of several days. The Ministry of Intelligence asked Dr. Esfandiari questions about her work and her work at the Woodrow Wilson International Center. The Woodrow Wilson International Center supplied exhaustive material about her education and information about her mission.

Dr. Esfandiari was essentially kept under house arrest for 10 weeks. On May 7 she was informed she must return to the Intelligence Ministry on May 8. Upon honoring the summons, Dr. Esfandiari was immediately taken into custody and jailed. She has been denied contact with her family, her attorneys, and the outside world. Earlier this week, news reports stated that Dr. Esfandiari is suspected of espionage and supporting the "soft revolution" against the regime in Iran.

Dr. Esfandiari is well known and well respected as a Middle East scholar. She has dedicated her professional career to bringing people together from the West to gain greater understanding of the Middle East and to gain common ground.

Increasingly, Iran has begun to stifle debate among different people and international exchanges.

The Department of State has called upon the Iranians to release Dr. Esfandiari. I am joined in this resolution by Senators MIKULSKI, BIDEN, LIEBERMAN, SMITH, CLINTON, and DODD, which encourages the State Department to keep up the pressure on the Iranians to do the right thing and release Dr. Esfandiari.

I also wish to recognize the solid effort of the Woodrow Wilson International Center and its staff, led by our former colleague in the House of Representatives, Lee Hamilton, for its steadfast support of Dr. Esfandiari.

Finally, I wish to express my support for Dr. Esfandiari's family during this trying time. She has a strong family and dozens of caring friends who refuse to give up her plight and refuse to let the Iranians suppress a beacon of peace and understanding.

This is outrageous. The Iranians need to do the right thing and allow her to return home here in the United States.